

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of FTC Communications, Inc.
DBA FTC Wireless for Designation as an
Eligible Telecommunications Carrier
Pursuant to Section 214(e)(2) of the
Communications Act of 1934

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2007 - 193 - C

(Please type or print)

Submitted by: Margaret M. Fox

Address: McNair Law Firm, P. A.

P. O. Box 11390

Columbia, SC 29211

SC Bar Number: 65418

Telephone: 803-799-9800

Fax: 803-753-3219

Other: _____

Email: pfox@mcnair.net

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda
expeditiously

☐ Other: _____

INDUSTRY (Check one)

NATURE OF ACTION (Check all that apply)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☒ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other: _____

- | | | |
|--|--|--|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input checked="" type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

MCNAIR LAW FIRM, P.A.

ATTORNEYS AND COUNSELORS AT LAW

www.mcnair.net

THE TOWER AT 1301 GERVAIS
1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803)799-9800
FACSIMILE (803) 753-3219

July 16, 2007

Mr. Charles L. A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

Re: Application of FTC Communications, Inc. d/b/a FTC Wireless for
Designation as an Eligible Telecommunications Carrier Pursuant to
Section 214(e)(2) of the Communications Act of 1934
Docket No. 2007-193-C

Dear Mr. Terreni:

Enclosed for filing on behalf of the South Carolina Telephone Coalition in the above-referenced docket, please find two copies (2) of the Reply Testimony of Glenn H. Brown. Portions of Mr. Brown's Testimony and exhibits refer to or contain confidential information that was provided to the South Carolina Telephone Coalition by FTC Communications, Inc. pursuant to the terms of a protective agreement. Those portions of Mr. Brown's testimony and exhibits have been redacted in the publicly-filed version of this testimony.

In addition to this public version, there is also a proprietary version of Mr. Brown's testimony that is being filed under seal with the Commission and is being provided to FTC Communications, Inc. and other authorized parties who have signed protective agreements with FTC Communications, Inc.

Please note that the attached document is an exact duplicate, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

Please clock in a copy of the testimony and return it with our courier.

Thank you for your assistance.

Very truly yours,



Margaret M. Fox

MMF/rwm
Enclosures

cc: Parties of Record

**** PUBLIC VERSION ****

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Application of FTC Communications, Inc.)
DBA FTC Wireless for Designation as an)
Eligible Telecommunications Carrier)
Pursuant to Section 214(e)(2) of the)
Communications Act of 1934)

Docket No. 2007-193-C

REPLY TESTIMONY OF
GLENN H. BROWN
ON BEHALF OF THE
SOUTH CAROLINA TELEPHONE COALITION

July 16, 2007

**** Indicates proprietary material that is redacted from public versions of this testimony ****

1 **INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Glenn H. Brown, and my business address is PO Box 21173, Sedona,
4 Arizona 86341.

5 **Q. Have you previously filed testimony in this proceeding?**

6 A. Yes. I filed Initial Testimony on behalf of the South Carolina Telephone
7 Coalition (SCTC) on July 2, 2007.

8 **Q. What is the purpose of your Reply Testimony?**

9 A. The purpose of this testimony is to reply to the testimony and other data filed by
10 FTC regarding its application for ETC status in the state of South Carolina,
11 including its proposed network improvement plan, and specifically to comment on
12 whether through its record showings FTC has met its burden of proving that
13 approval of its application would be in the public interest.

14 **Q. What are the factors that should influence the Commission's evaluation of**
15 **whether FTC's, or any other ETC applicant's application for ETC status**
16 **and significant amounts of high-cost universal service funding is in the public**
17 **interest?**

18 A. As I discussed in my initial testimony in this proceeding, the heart of the public
19 interest analysis is the determination of whether the public benefits resulting from
20 the provision of public funds to the ETC applicant exceed the public costs of
21 providing such funding. Unlike the wireline incumbent which receives universal
22 service funding only *after* it has made investments in high-cost
23 telecommunications infrastructure, a wireless CETC receives funding *before* any

1 high-cost investments have been made. The purpose of high-cost universal
2 service funding is to ensure that otherwise uneconomic investments are made so
3 that rural consumers can enjoy services comparable to those available to urban
4 consumers. The Commission has a right and a duty to find out exactly what the
5 ETC applicant intends to do with the public funding that it seeks.¹ It is for this
6 reason that the five year plan is such an important part of the public interest
7 analysis. This plan is the only way that the Commission can measure the public
8 benefits through rural infrastructure investment that will result from the requested
9 designation. In other words, how much "bang" will the public get for its high-cost
10 universal service "buck." In evaluating the five year plan of this and other ETC
11 applicants, the Commission should seek to understand and measure how much of
12 the requested funding will be used to expand the applicant's service coverage into
13 previously unserved areas. Also, the public will not benefit if the applicant
14 merely uses high-cost universal service funding to make investments that it would
15 have made anyway in the normal course of business. High Cost universal service
16 funds only create public benefit to the extent that they result in investments that
17 are incremental to what the applicant normally would have made, and in facilities
18 in high-cost, low-volume areas that would not have been made absent universal
19 service funding. The recent Joint Board Recommended Decision clearly indicates
20 that prior practices in the granting of wireless CETC funding have resulted in
21 explosive growth in the fund that threatens to make the critically important

¹ Indeed, in what other area of government can a private entity seek tens of millions of dollars of public funding without making a solid demonstration of what it intends to do with the funds, and how the public will benefit from such expenditures?

1 universal service mechanisms of this country unsustainable. This Commission
2 correctly foresaw this coming problem in its 2005 ETC decision,² and insisted on
3 a high standard of proof when the expenditure of scarce public funds is involved.
4 Only through a careful, fact-based analysis of the five-year plan can the
5 Commission determine whether the applicant's planned use of the high-cost
6 funding that it seeks will meet the test of the public interest.

7 **Q. Could you please summarize the conclusions that you have reached in your**
8 **review of FTC's application, testimony and five-year build-out plan?**

9 A. As described more fully in the remainder of my testimony, I have reached the
10 following conclusions:

11 1. FTC's two-year and five-year plans are lacking in some of the detailed
12 information that will be necessary for the Commission to perform its public
13 interest analysis.

14 2. While the network improvement plans do indicate the number of towers that
15 FTC intends to build over the next five years using high-cost universal service
16 funds, the proposed construction schedule ** [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED] **

² Order No. 2005-5, dated January 7, 2005 in Docket No. 2003-158-C, *IN RE: Application of FTC Communications DBA FTC Wireless for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934.*

1 3. The FTC improvement plans only show projected tower locations for the first
2 year of the plan, and ** [REDACTED]

3 [REDACTED] **

4 4. FTC's designation as an ETC would create significant public costs and deliver
5 proportionately few incremental public benefits.

6 5. Unless and until FTC makes a more complete and compelling public interest
7 showing that high-cost funding will be used to expand its network into
8 currently unserved areas, there is an insufficient basis upon which the
9 Commission could find that the application is in the public interest and,
10 therefore, the application should not be approved.

11 I also will summarize several principles that I believe will be important as the
12 Commission seeks to develop specific rules for the evaluation of ETC applications.

13 **THE FIVE-YEAR PLAN**

14 **Q. In its May 30, 2007 Directive, the Commission stated that "we should be**
15 **informed by – but not controlled by – [the] FCC guidelines." What are the**
16 **specific guidelines that the FCC has provided for the submission of a five-**
17 **year plan?**

18 **A. The FCC guidelines for review of the five year plan are found in Part 54.202 of**
19 **the FCC rules and state that the ETC applicant must:**

20 Submit a five-year plan that describes **with specificity** proposed
21 improvements or upgrades to the applicant's network on a wire center-
22 by-wire center basis throughout its proposed designated service area.
23 Each applicant shall demonstrate: (emphasis added)

- 24 o How signal quality, coverage or capacity will improve due
25 to the receipt of high-cost support;

- The projected start date and completion date for each improvement;
- The estimated amount of investment for each project that is funded by high-cost support;
- The specific geographic areas where the improvements will be made; and
- The estimated population that will be served as a result of the improvement.

- If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

Q. Do the FTC two-year and five-year plans meet the requirements of the FCC guidelines?

A. No, they do not. FTC's plans lack important detail that will be necessary if the Commission is to fully evaluate the benefits that will result from the expenditure of high-cost universal service funds. My overall comments on the FTC plans include:

1. The plans provide identification of proposed new tower site locations for the first year only. ** [REDACTED]

[REDACTED] **

2. ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ** For example, universal service funds cannot be used to support

1 equipment such as EVDO that is used exclusively for the provision of
2 broadband services.

3 3. ** [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] **

12 **Q. Why is it so important that the five-year plan contain the specific detail that**
13 **is outlined in the FCC rules?**

14 **A.** As I described on page 12 of my initial testimony, the amount of high-cost support
15 that a wireless ETC receives is based not upon its own costs, but on the costs that
16 the wireline incumbent has incurred to expand its network to serve throughout the
17 entire service territory – even to the most remote and costly parts. As stated in my
18 earlier testimony, “Without some meaningful and enforceable commitment to
19 invest these funds in the towers and other wireless infrastructure necessary to
20 deliver high-quality signal coverage in sparsely populated rural areas where such
21 investment would not otherwise be economically viable, a wireless ETC would be
22 able to receive substantial high-cost funds merely for continuing to serve its
23 existing (and presumably lower-cost) customer base.” Such an outcome would be

1 an unwise use of scarce public funds, and clearly would not be in the public
2 interest. While present FCC rules may technically allow a wireless ETC to use
3 universal service funds to reinforce coverage in existing and lower-cost service
4 areas, the Commission should give higher weight to network improvement plans
5 that predominantly use such funds to expand signal coverage to previously
6 unserved areas. The Commission should expect FTC to provide "before" and
7 "after" coverage maps to determine the proposed amount of coverage expansion
8 into higher-cost areas throughout the five-year planning period. This will be
9 important information in evaluating the public interest benefits of individual ETC
10 applications, and will also be useful in comparing different ETC applications
11 when multiple wireless carriers seek ETC status in the same high-cost rural
12 service areas. Most importantly, Section 214(e) and the FCC's 54.201 rules
13 require the ETC to serve throughout the proposed ETC service area, and the five
14 year plan is an important part of the Commission's review of a prospective ETC
15 applicant's capability and commitment to do so.

16 **Q. Aside from the qualitative shortcomings of the FTC five-year service**
17 **improvement plan, what is your most serious concern with the factual**
18 **showings that this plan does or does not make?**

19 **A.** I believe that the most important shortcoming of the plan is that it appears to show
20 that FTC will use high-cost universal service funding as a replacement for, rather
21 than an addition to, investments that FTC would make in the normal course of
22 business.

1 **Q.** Is it possible to determine the investment that FTC has made in tower
2 **facilities over the past several years?**

3 **A.** Yes. As part of its efforts to obtain ETC status and high-cost universal service
4 funding, FTC has filed testimony before this Commission in September of 2003,
5 August of 2004, and July of 2007. In his September 2003 testimony, Mr. Wilmot
6 E. McCutchen, then Chief Operating Officer of FTC stated "FTC currently
7 utilizes sixty cell sites, located approximately five miles apart to provide digital
8 wireless service in various parts of its licensed area."³ Mr. McCutchen further
9 testified that "Universal service support will enable FTC to significantly enhance
10 service in areas already served and expand coverage into unserved areas."⁴ In his
11 testimony filed in August of 2004, Mr. McCutchen stated "FTC currently utilizes
12 seventy-five cell sites, located approximately five miles apart to provide digital
13 wireless service in various parts of its licensed area. ... Universal service support
14 will enable FTC to significantly enhance service in areas already served and
15 expand coverage into unserved areas."⁵ Thus, eleven months later, and without
16 the benefit of any universal service support, FTC had added 15 new towers to its
17 network. In July of 2007 Mr. N. Douglas Horne, current Chief Operating Officer
18 of FTC state "FTCC currently has deployed 95 cell sites located throughout its
19 service area to provide digital wireless service."⁶ Now, 34 months since Mr.
20 McCutchen's last testimony, FTC has added 20 new towers to its network, again
21 without the benefit of universal service support. Overall, this equates to an

³ Mr. McCutchen's testimony filed September 22, 2003, at page 5.

⁴ *Id.*

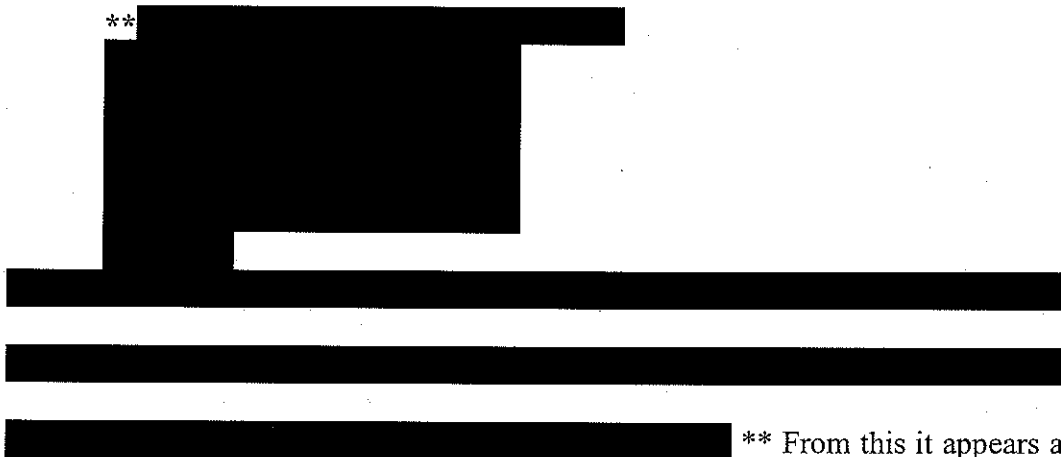
⁵ Mr. McCutchen's testimony filed August 12, 2004, at page 6.

1 increase of 35 towers over a period of 46 months, or slightly over 9 towers per
2 year. In response to a question regarding how FTC will use the universal service
3 funds it receives if granted ETC status, Mr. Horne states "FTC will apply all the
4 funds to the capital investment and associated expenses required to expand,
5 maintain and enhance service coverage throughout our rural area as well as
6 increase emergence restoration capabilities."⁷

7 **Q. How do the tower additions proposed in FTC's five-year plan relate to FTC's**
8 **historical run-rate for tower additions?**

9 A. FTC's five-year plan shows the following schedule for tower additions:

10 **



20 ** From this it appears a
21 significant portion of the high-cost universal service funding that FTC is seeking
22 will be used to offset network investments that it otherwise would be making
23 rather than for investments that it would not make absent the availability of such
support.

⁶ Horne testimony at page 10, line 11.

⁷ *Id* at page 11, line 10.

1 **Q.** Does the five-year plan allow for the identification of towers that will expand
2 signal coverage into previously unserved high-cost areas as opposed to
3 reinforcing coverage in presently served and lower cost areas?

4 A. ** [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] ** Universal service funded

11 towers that are located in lower-cost and currently served areas should have a
12 lower public benefit level in the Commission's public interest analysis than
13 towers that are built to extend signal coverage into higher-cost and previously
14 unserved areas.

15 **Q.** Why should some of the expenditures that FTC has proposed have a lower
16 public benefit value than others in the context of the Commission's required
17 public interest analysis?

18 A. Section 254(b) of the 1996 Act states the six fundamental universal service
19 principles established by Congress. In particular, 254(b)(3) states that:

20 Consumers in all regions of the Nation, including low-income
21 consumers and those in rural, insular and high-cost areas, should have
22 access to telecommunications and information services, including
23 interexchange services and advanced telecommunications and
24 information services, that are reasonably comparable to those services
25 provided in urban areas and that are available at rates that are

1 reasonably comparable to rates charged for similar services in urban
2 areas.

3 Thus, one of the primary purposes of high-cost universal service funding is to
4 encourage investment in rural telecommunications infrastructure that would not
5 be economically viable without such support. This will enable the delivery of
6 those services to rural consumers who otherwise would not have access to them.
7 Wireless carriers, including FTC, have historically built their networks in areas
8 where population density is high and costs are low.⁸ These are areas where a
9 viable business case exists for the construction of networks, and costs can be
10 recovered from customers. In fact, in many urban areas of South Carolina up to
11 eight wireless carriers have built wireless networks. Where population density is
12 low and costs are high, however, there may not be a business case for the
13 construction of towers and other wireless infrastructure. In evaluating the public
14 benefits of a proposed ETC application and network build-out plan, the
15 Commission should thus give greater weight to the construction of network
16 infrastructure that would extend service to currently unserved rural areas, and
17 little if any weight to infrastructure investment in low-cost areas that are already
18 served. This is particularly important if, as the Joint Board's recent
19 Recommended Decision confirms, the high-cost fund has grown to the point
20 where its very sustainability is in question. Investment to upgrade network
21 capacity and service features in all areas of FTC's network, including the lower-
22 cost areas that it already serves and where vigorous competition exists among

⁸ Since wireless service is mobile and can be used in automobiles, wireless carriers have also historically built their networks along heavily traveled highways.

1 wireless providers, is good and should be encouraged – the issue is who pays for
2 it. Upgrades in the lower cost areas where FTC competes with other wireless
3 carriers should be paid for by FTC and its customers. The public's money should
4 only be used to support network infrastructure in areas where such investment
5 would not be made absent high-cost support.

6 **Q. Are there any specific items that the Commission should exclude from the**
7 **proposed use of universal service funds?**

8 A. Yes. Universal service funds cannot support investment in equipment that is used
9 exclusively for services that are not included in the FCC's list of supported
10 services. Broadband data services would be an example of such a non-supported
11 service. An example of equipment that would not qualify for universal service
12 support under the current FCC rules would be EVDO. EVDO stands for
13 Evolution – Data Optimized, and represents equipment whose sole purpose is to
14 provide broadband services over wireless networks.

15 **Q. Do you have reason to believe that FTC's Plan includes investment of high-**
16 **cost funds in EVDO equipment?**

17 A. From the level of detail provided by FTC in the five-year plan, it cannot be
18 determined if the proposed network improvements include EVDO or any other
19 inappropriate equipment. As it develops its new rules for ETC designation, the
20 Commission should require that in its network build-out plan, an ETC applicant
21 identify the specific equipment it proposes to add in a manner sufficiently granular
22 to identify equipment that is appropriate for USF support as well as equipment,
23 such as EVDO, that represents inappropriate use of universal service funds.

1 **Q. Please summarize your evaluation of FTC's five-year plan.**

2 A. FTC's, and any other ETC applicant's, five-year plan would be more meaningful
3 and useful if it were accompanied by network coverage maps that show signal
4 coverage before and after the proposed improvements. Given that the purpose of
5 the high-cost universal service fund is to support network infrastructure that
6 would not exist absent such funding, to properly evaluate the public benefits from
7 the expenditure of scarce universal service funds the Commission needs to see the
8 amount of service expansion that the ETC applicant is willing to commit to.

9 **Q. Do you have any specific recommendations for the Commission on the**
10 **benefits of a five-year build-out plan vs. a two-year plan?**

11 A. I believe that the FCC required a five-year plan in its March 17, 2005 ETC
12 Designation Order so that it could ensure that the ETC applicant would meet the
13 requirement, expressed originally in the Virginia Cellular Order,⁹ that an ETC
14 applicant must demonstrate its capability and commitment to serve throughout the
15 proposed ETC service area in a reasonable period of time. It should be noted that
16 FTC's build-out plan extends for more than two years, so a two-year plan and
17 commitment would not likely result in a demonstration of the ability to serve
18 throughout the ETC service area. The Commission's proposed rules, as published
19 in the State Register on April 27, 2007, include the requirement for a two-year
20 plan. I appreciate the fact that it is difficult to project specific network
21 improvement projects more than two years in the future, but I still believe that a

⁹ *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338, released January 22, 2004, at paragraph 28.

1 two-year plan and commitment is not long enough to ensure capability and
2 commitment to serve throughout the ETC service area. While FTC has only
3 provided specific investment detail for the first year of the plan, it does provide
4 the number of towers that it commits to build over the five year planning period.
5 This is helpful in evaluating the level of commitment that FTC is willing to make
6 for the investment of high-cost funds (in this case indicating that funds will not be
7 used to significantly increase its historical level of investment as a result of high-
8 cost funding). It would also be helpful if FTC would provide specific planned
9 investment details for the second year of the plan.

10 **OTHER COMPONENTS OF THE FCC GUIDELINES**

11 **Q. Continuing on with the FCC's guidelines, has FTC demonstrated its ability**
12 **to remain functional in emergency situations?**

13 A. FTC's emergency response capabilities are described in Mr. Horne's testimony.
14 The Commission will need to evaluate whether these provisions are adequate to
15 meet the needs of the citizens of South Carolina.

16 **Q. Has FTC demonstrated that it will satisfy consumer protection and service**
17 **quality standards?**

18 A. In his testimony, Mr. Horne states that FTC has adopted the CTIA Consumer
19 Code for Wireless Services.¹⁰ Part 44.202 of the FCC rules states that "A
20 commitment by wireless applicants to comply with the CTIA's Consumer Code
21 for Wireless Service will satisfy this requirement. Other commitments will be
22 considered on a case-by-case basis." Given that this Commission has stated that it

¹⁰ Horne testimony at page 8, line 15.

1 will be informed – but not controlled – by the FCC rules, SCTC would
2 respectfully recommend that ETC applicants in the state of South Carolina also be
3 required to comply with consumer protection rules similar to those required of
4 other telecommunications providers in this state.

5 **Q. Does FTC offer a local usage plan comparable to the one offered by the ILEC**
6 **in the service area for which it seeks designation?**

7 A. Presently, all of FTC's rate plans are usage sensitive and priced significantly
8 higher than the average \$14.35 rate that SCTC members charge for unlimited
9 local calling. The lowest priced plan that I could find on FTC's web site was
10 priced at \$39.99 per month and includes 450 minutes of local usage (about 15
11 minutes per day). Other plans with more local usage were more expensive. The
12 \$39.99 plan requires a two-year service commitment and a \$175 early termination
13 fee. The subscriber is required to pay for both originating and terminating calls,
14 and minutes over 300 in a month are billed at \$0.45 each (or \$27 per hour).

15 **Q. Does FTC discuss the offering of an unlimited local calling plan if granted**
16 **ETC status?**

17 A. There is some discussion of an unlimited local calling plan in FTC's application
18 and testimony. However, information regarding this plan is limited, it is uncertain
19 if FTC is actually committed to offering it, and details are sketchy. At page 5 of
20 its Application FTC states:

21 To the extent that FTCC's existing calling plans are not deemed comparable
22 to those offered by the incumbent wireline local exchange carriers (including
23 its own parent), the designation of FTCC as an ETC and the receipt of
24 universal service support will enable FTCC to offer customers a new "Basic
25 Universal Service Plan." This plan, made possible by ETC designation, is

1 designed to meet the needs of those customers whose primary interest is in
2 obtaining a basic, low-cost wireless connection to the network. The "Basic
3 Universal Service Plan" will be comparably priced to the basic unlimited
4 landline local calling plans offered by the Farmers Telephone Cooperative.
5 This service offering will enable FTCC wireless customers to call all Farmers
6 Telephone Cooperative local service numbers without any additional charges
7 or long distance charges.

8 At page 4, line 18 of his testimony, Mr. Horne states:

9 FTCC's current calling plans are often considered by consumers to be superior
10 to traditional incumbent LEC service offerings because there is no rate
11 distinction between "local" and "long distance" calls. The designation of
12 FTCC as an ETC and the receipt of universal service support will enable
13 FTCC to offer customers a new "service offering." As indicated in our
14 Petition, this plan, made possible by ETC designation, is designed to meet the
15 needs of those customers whose primary interest is in obtaining a basic, low-
16 cost wireless connection to the network. The "service offering" will provide
17 basic unlimited local calling area [sic] at affordable rates."

18 Mr. Horne further describes this new calling plan on page 9, beginning at line 5,
19 where he states:

20 FTCC will, as I previously described, offer a new "service offering" to provide
21 customers with unlimited connection to its local wire and wireless network if
22 it is designated an ETC. Wireless plans have service aspects not easily
23 compared to the incumbent LEC such as local wireless calling areas for FTCC
24 that exceed that of the ILEC and the wireline ILEC local plan has is [sic] not
25 time sensitive. The value to the local customer must be considered. The
26 unique benefits of the wireless service provide comparable or better service
27 than that offered by the ILEC in terms of the value. For example, a wireless
28 customer has mobility and toll free long distance opportunities. FTCC will
29 offer free of charge access to emergency services. FTCC will offer calling
30 plans that bundle local and long distance calling, so its customers may select a
31 local calling area most appropriate for his or her needs. Because the wireline
32 and wireless plans have features making absolute comparison impossible, the
33 plan offered by FTCC may not match up with the ILEC item by item but I
34 believe FTCC's offering, in terms of value, is comparable if not better than the
35 ILEC local usage plan.

1 **Q. What to you make of FTC's proposed new service offering?**

2 A. Frankly I am confused, and I suspect that the Commission might be as well. What
3 is needed is some clarity around this new offering. Specifically, the Commission
4 should demand clear and unambiguous answers to questions such as:

5 • Does FTC unconditionally commit to offer this Basic Universal Service Plan
6 if granted ETC status, or is the offer conditioned on something else?

7 • What does Mr. Horne mean in the two testimony segments quoted above?

8 While at times he seems to be saying that FTC will offer an unlimited local
9 usage plan priced comparable to the incumbent, at other times he appears to be
10 arguing for the superiority of FTC's wireless plans. Does FTC plan to offer
11 the Basic Universal Service Plan if granted ETC status, or not?

12 • At what rate will the Basic Universal Service Plan be offered? What specific
13 terms and conditions will apply (i.e., minimum service commitment and
14 termination fee, if any, pricing for calls outside of the local calling area, etc.)?

15 • What local calling area will apply?

16 • What is meant in the Application when it states that the Basic Universal
17 Service Plan "will enable FTCC wireless customers to call all Farmers
18 Telephone Cooperative local service numbers without any additional charges
19 or long distance charges?" Does this mean that calls made within the same
20 local area to numbers other than Farmers Telephone Cooperative landline
21 numbers *will* incur additional charges?

1 **COST/BENEFIT ANALYSIS**

2 **Q. What public costs will be created by the designation of FTC as an ETC in**
3 **South Carolina?**

4 A. The most obvious public cost would be the \$3.54 million per year of universal
5 service funds (\$17.7 million over the five-year network improvement plan time
6 frame) that FTC would receive. Since FTC would receive payments from the
7 universal service fund based upon the number of handsets in service, this amount
8 can be expected to grow as FTC adds additional customers and/or handsets. The
9 costs could actually go higher if the Commission grants ETC status to multiple
10 wireless carriers. As I identified in my initial testimony, Alltel currently has an
11 ETC request pending for the same service areas that FTC has requested, and if it
12 becomes evident that ETC status can be obtained based on a minimal service
13 commitment and factual showing, then it is likely that other wireless carriers will
14 also apply, further driving up the cost. Presently as many as eight wireless carriers
15 are licensed in the service area that FTC has requested. For this reason I have
16 recommended throughout this testimony that the Commission carefully evaluate
17 (and compare) the five-year service improvement plans submitted by FTC and
18 other ETC applicants, and only grant ETC status when the public benefits clearly
19 exceed the public costs.

20 **Q. What public benefits has FTC described in its testimony in this proceeding?**

21 A. In its Application as well as in the testimony of Mr. Horne, FTC discusses its
22 perception of the public benefits that the designation of FTC as an ETC would
23 bring. Among the items that they have mentioned are:

- 1 • Health and safety benefits;
- 2 • Economic development opportunities; and
- 3 • Competitive benefits.

4 **Q. Is “mobility” a unique advantage of FTC’s service offering?**

5 A. No. While FTC’s service does provide mobility, so do all of the other wireless
6 carriers licensed in the State of South Carolina to provide mobile wireless service.
7 It is critically important to keep in mind, however, that the health and safety
8 benefits of wireless service only exist where there is a wireless signal present, and
9 a new ETC designation will increase the public’s access to these benefits only to
10 the extent that it expands the area where these benefits can be enjoyed. Thus, the
11 *incremental* public health and safety benefits of any particular ETC designation
12 are directly proportional to the amount of funding that is used to add new towers
13 that will expand the service into areas where a wireless signal is not currently
14 present. Therefore the Commission should carefully evaluate how much of the
15 high-cost funding the ETC applicant proposes to use to extend signal coverage
16 into previously unserved areas.

17 **Q. Based upon your review of FTC’s application, testimony and two-year and**
18 **five-year plans, do you believe that FTC’s designation as an ETC will be in**
19 **the public interest?**

20 A. No. The cost/benefit math is simple. As I have previously described, incremental
21 public benefits come predominantly from the extension of signal coverage into
22 previously unserved areas. If approved, FTC will receive a minimum of \$17.7
23 million over the five-year plan time frame. As I described in the previous section

1 of my testimony, over this same period, most of this money would be spent on
2 capacity and technology upgrades in the lower cost portions of the service territory
3 that FTC currently serves. This leads me to conclude that the increased public
4 benefits of FTC's designation fall significantly short of the increased cost, and
5 therefore such designation and the resulting expenditure of public funds would not
6 be in the public interest.

7 **Q. On page 7 of his testimony, Mr. Horne describes a six-step process that FTC**
8 **would follow in deciding how or whether FTC would provision service to**
9 **customers outside of its network coverage area. Similar language can be**
10 **found in the Commission's ETC rules. Do you think that this six-step**
11 **process serves the public interest?**

12 **A.** No I do not, for two reasons. The first is its reliance on high-power customer
13 premise equipment and/or rooftop antennas to extend service into areas with poor
14 signal quality. While this might provide some minimal public benefit to the
15 particular individual upon whose rooftop the antenna is mounted, it provides no
16 incremental health and safety benefits to the general population. If the wireless
17 signal is not strong enough to work with the basic wireless handset that most
18 consumers use, then they would not be able to reach emergency services should
19 they be traveling through such an area, or at their homes, if they live in such an
20 area. Again, the primary health and safety benefits come through the construction
21 of towers that expand the area where consumers can make wireless calls.

1 **Q. What is your second problem with the six-step process?**

2 A. My second concern is that in the final step of the process, the carrier would appear
3 to have the option to not install a new tower if doing so would prove too costly.
4 As I have stated repeatedly in this testimony, the primary purpose of universal
5 service funding *is* to support infrastructure investment in rural areas that would
6 not otherwise be made because they were too costly to serve. I believe that the
7 six-step process is an anachronism from the early days when the purpose of
8 universal service funding was erroneously perceived as being to promote
9 competition. As I outlined at the beginning of my testimony, we have come a
10 long way since then. The dire straits that the universal service fund is now in have
11 resulted in large part from the granting of ETC status without careful
12 consideration of how scarce public funds will be used, and how the public would
13 benefit from such expenditures. I would therefore recommend that the
14 Commission remove these service provisioning steps from its proposed rule, or at
15 a minimum have someone other than the carrier itself determine when a high-cost
16 area is too high-cost for high-cost funding.

17 **THE ETC DESIGNATION RULEMAKING**

18 **Q. As you have gone through your analysis of the FTC Application, testimony**
19 **and two-year and five year plans you have indicated a number of areas**
20 **where additional information in the ETC Application would have been**
21 **useful to the Commission in its public interest determination process. As you**
22 **know, the Commission is currently engaged in a rulemaking that will specify**
23 **the information that an ETC applicant must make, and the criteria that will**

1 be utilized in making the public interest analysis. Have you summarized
2 your thoughts on how the draft ETC designation rules that the Commission
3 is considering could be improved?

4 A. Yes, I have. On June 26, 2007, the Commission held a public hearing during
5 which it accepted input from parties regarding its proposed ETC designation rules.
6 I had the privilege of addressing the Commission during this hearing, and I
7 presented a number of constructive suggestions for improvement of the proposed
8 rules on behalf of the SCTC. I am attaching as Exhibit GHB-1 to my testimony a
9 “red-line” markup of the Commission’s proposed rules. This is the document I
10 used during the hearing to explain the SCTC’s suggested changes, with a few
11 minor additional changes that were incorporated after the public hearing and
12 included in the final version of the document that is being filed with the
13 Commission by the SCTC in the rulemaking proceeding on July 16, 2007. The
14 input shown on Exhibit GHB-1 is fully consistent with the comments and
15 suggestions that I have made throughout this testimony. It is my sincere hope that
16 the Commission will find this information useful as it proceeds with this
17 important rulemaking process, as well as in making a determination regarding
18 whether to approve FTC’s Application in this proceeding.

19 **CONCLUSIONS**

20 Q. Could you please summarize your testimony and recommendations to the
21 Commission?

22 A. As mentioned in my Initial Testimony, the recent Joint Board Recommended
23 Decision is an indication that policy leaders at the federal level believe that

1 immediate action is necessary to rein in the explosive growth in high cost
2 universal service disbursements. They have identified the current equal-per-line
3 support rule and the designation of multiple ETCs in many high-cost rural service
4 areas as causes of this, and have committed to quickly come up with
5 recommendations for long-term universal service reform. In this proceeding, as
6 well as in other CETC cases and rulemaking dockets that are proceeding
7 concurrently, the Commission has the opportunity to get the ETC designation
8 process right. The goal of universal service funding is clear – to facilitate
9 investment in and maintenance of high-cost telecommunications infrastructure
10 that would otherwise not be economically viable, so that rural consumers can
11 enjoy services that are comparable to those available in urban areas. As I have
12 explained throughout my testimony, in making its important public service
13 findings, this Commission should determine the extent to which the ETC
14 applicant will use the high-cost funds that it requests to extend its network into
15 high-cost and currently unserved areas of the state, and employ a thoughtful
16 cost/benefit analysis that awards ETC status only when the benefits of its service
17 expansion and other network upgrades clearly exceed the costs of increased
18 universal service funding.

19 **Q. In your opinion, does FTC's application, as supported by its testimony and**
20 **five-year plan, pass this type of cost/benefit test?**

21 A. No. FTC's five-year network improvement plan fails to demonstrate that the
22 receipt of ETC funding will significantly increase the pace of tower construction
23 that FTC has historically undertaken without the use of universal service funding,

1 Instead, FTC's plan indicates that most of the proposed tower additions will be
2 made in the lower-cost areas that FTC currently serves. While improving overall
3 network infrastructure throughout the entire ETC service area, including currently
4 served lower-cost portions, is a laudable goal, this is not the purpose of universal
5 service funding. The important health and safety benefits that FTC describes as
6 one of the primary benefits of its designation are only available when there is a
7 signal present. Scarce high-cost fund resources should be used for their intended
8 purpose which is the extension of signal coverage into remote, high-cost areas that
9 currently lack coverage. This should be the litmus test by which the Commission
10 reviews this and any other ETC application that comes before it.

11 **Q. Should the Commission approve FTC's application based upon the factual**
12 **showings that it has made in this proceeding?**

13 A. I do not believe that it should. Perhaps FTC could revise its build-out plan and
14 commitments in such a way as to demonstrate more public benefits than it has
15 shown thus far. However, based upon the record before it I believe the
16 Commission should find that the public costs of designating FTC as an ETC
17 outweigh the incremental public benefits.

18 **Q. Does this conclude your testimony at this time?**

19 A. Yes.

REGULATIONS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS

103-690 Designation of Eligible Telecommunications Carriers

A. Purpose.

1. This regulation defines the requirements for designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of receiving federal universal service support, not state universal service support, pursuant to 47 U.S.C. § 214(e) of the Federal Telecommunications Act of 1996.

2. This regulation will ensure that the Commission will only grant a particular application if doing so will further the goals and purposes of the federal high-cost universal service fund and the universal service provisions of Section 254 of the Telecommunications Act of 1996. Specifically, that consumers in all regions of South Carolina, including those in rural, insular and high-cost areas will have access to telecommunications services comparable to those in urban areas of the state.

3. Notwithstanding the ETC applicant's regulatory status or the Commission's jurisdiction over the applicant's regular operations, in seeking designation as an ETC, the applicant acknowledges the Commission's authority and jurisdiction to impose such regulations on ETCs, including the applicant, as are in the public interest.

B. Definitions.

1. Cell Site. A geographic location where antennae and electronic communications equipment are placed to create a cell in a cellular network for the use of mobile phones. A cell site is composed of a tower or other elevated structure for mounting antennae, and one or more sets of transmitter/receivers, transceivers, digital signal processors, control electronics, and backup electrical power sources and sheltering.

2. Commission. The word Commission in this regulation means the Public Service Commission of South Carolina.

3. Eligible Telecommunications Carrier (ETC). An ETC is a carrier as defined in 47 U.S.C. §214(e).

4. Lifeline Service. Lifeline Service is a service as defined in 47 C.F.R. §54.401.

5. Link Up Service. Link Up Service is a service as defined in 47 C.F.R. §54.411.

6. ORS. The abbreviation ORS in this regulation means the Office of Regulatory Staff.

7. Wire Center. A geographic location of one or more local switching systems; a location where customer loops converge. References to the evaluation of service within a wire center, for purposes of this regulation, shall mean an evaluation of the quality of the services provided in that part of the licensees' service area served by a cell site in the event the applicant is a wireless service provider.

C. Requirements for initial designation as an Eligible Telecommunications Carrier.

(a) The Commission may upon its own motion or upon request, designate a common carrier that meets the requirements in this section, and the public interest standard set forth in subsection (b) of this section, as an ETC for a designated service area. ETCs shall offer services in compliance with 47 C.F.R. §54.101. Upon request and consistent with the public interest, convenience and necessity, the Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission. Before designating an additional ETC for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest. On or after the effective date of this rule, in order to be designated an eligible telecommunications carrier under 47 U.S.C. §214(e)(2) of the Federal Telecommunications Act of 1996, any common carrier in its application filed with the Commission and a copy provided to the ORS must provide the following information:

(1) (A) commit to provide service throughout its proposed designated service area to all customers making a request for service. Each applicant shall certify that it will (1) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (2) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by ~~(a) modifying or replacing the requesting customer's equipment; (b) deploying a roof mounted antenna or other equipment; (ea)~~ adjusting the nearest cell tower; ~~(eb)~~ adjusting network or customer facilities; ~~(ec)~~ reselling services from another carrier's facilities to provide service; or ~~(fd)~~ employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment; and (3) Submit a five-year build-out plan to serve throughout the ETC service area.

(B) submit a ~~two~~five-year plan that will describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis, ~~or on a cell site by cell site basis if the applicant is a wireless carrier that demonstrates its capability and commitment to serve throughout its proposed designated service area.~~ Each applicant shall demonstrate

1. How it plans to expand its network to ensure that unserved and underserved rural or high-cost areas will receive sufficient signal quality, coverage or capacity will improve due to the receipt of high-cost support throughout the area for which the ETC seeks designation;

2. A detailed map of the coverage area before and after the improvements and in the case of a CMRS provider, a map identifying existing and proposed tower site locations;
3. The specific geographic areas where the improvements will be made;
4. The projected start date and completion date for each improvement;
5. The estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made;
6. A statement as to how all of the facilities funded by high-cost support are eligible for such support; and
7. The estimated population that will be served as a result of the improvements.
8. If an applicant believes that service improvements in a particular wire center or on a particular cell site are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.
9. A statement as to how the proposed improvements funded by universal service dollars would not otherwise occur absent the receipt of high-cost support and that such support will be used in addition to any expenses the ETC would normally incur.
10. A statement showing, in detail, total operating costs of improvements and upgrades acquired to extend service into unserved areas as specified in the applicant's five-year plan, and projected receipts from the federal universal service fund.

~~(C) — for carriers seeking certification in areas not eligible for High Cost Support from the USF, but seeking ETC designation for the purpose of participation in the Lifeline and Link Up programs, the following shall apply in lieu of paragraph (B) above: shall submit a two-year plan that describes the carrier's plans for advertising and outreach programs for identifying, qualifying and enrolling eligible participants in the Lifeline and Link Up programs. All other provisions of this subsection shall apply.~~

(2) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. The Commission shall determine on a case-by-case basis whether a carrier has demonstrated its ability to remain functional in emergency situations.

(3) demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation. A competitive ETC must offer a stand-alone, unlimited basic local usage plan at a monthly rate comparable to the incumbent LEC rate of approximately \$14.35 per month for residential customers.

(5) certify by affidavit signed by an officer of the company that the carrier acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

(6) certify by affidavit signed by an officer of the company that it does or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services through the duration of its five-year build-out plan. After five years the carrier must offer the services using its own facilities.

(7) certify by affidavit signed by an officer of the company that it does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.

(b) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier pursuant to 47 U.S.C. §214(e)(2), the Commission must determine that such designation is in the public interest. In doing so, the Commission shall consider, *inter alia*, ~~the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering.~~ whether the public benefits created by supporting an additional ETC will exceed the public costs of supporting an additional network, and whether the designation will assist in ensuring that consumers in rural and high-cost areas of the state will have access to services similar to those available in urban areas of the state. In order to satisfy the cost/benefit test in rural areas, the operating costs submitted in C(a)(1)(B)10 above must exceed projected universal service receipts. The applicant has the burden of proving that such designation is in the public interest. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a creamskimming analysis that includes, but is not limited to, comparing the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. The Commission will deny designation if it concludes that the potential for creamskimming exists. The public interest determination is to be made separately for each rural telephone company study area included in the area for which the applicant seeks ETC designation. The Commission shall not designate a service area to an ETC that is smaller than an entire wire center.

DOCKET NO. 2007-193-C

CERTIFICATE OF SERVICE

C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211
lhammon@regstaff.sc.gov
(Public and Proprietary Versions)

COLUMBIA 893546v1